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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,446	11/27/2001	Richard C. Walker	10004017-1	9514

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AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER

CORRIELUS, JEAN B

ART UNIT	PAPER NUMBER
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2611

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	01/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/994,446

Applicant(s)

WALKER, RICHARD C.

Examiner

Jean B. Corielus

Art Unit

2611

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 12/7/06 and 12/13/06 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 19-27 and 33-36.
Claim(s) objected to: 7-9, 11-13, 15-18 and 29-31.
Claim(s) rejected: 1-6, 10, 14, 28, 32 and 37-41.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Jean B. Corielus
Primary Examiner
Art Unit: 2611

12-26-06

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that new claim 42 corresponds to claim 1, intervening claim 5 and allowable subject matter of claim 7. However, it is noted that the limitations of intervening claim 5 has been incorporated in the preamble of the claim. Such limitation should be included in the body of the claim. claim 3 is an improper dependent claim. because the claim fails to further limit claim 42. The comment further stated that new claim 43 corresponds to claim 10 including the indicated allowable subject matter of claim 11. However, it is noted that only a portion of the indicated allowable subject matter of claim 11 is incorporated in claim 43. in addition, claim 43, line 1, "system" should be replaced by "apparatus" so as to be consistent with subsequent recitations in the claim, see for instance, line 4. "shiting logic" as recited in the claim(s) should be replaced by "shifting circuitry", for consistency (See for instance claim 11 and claim 15). claims 17 and 18, "determination logic" should be replaced by "determination circuitry" for consistency. claims 16-18 "shift adjustments" should be replaced by "shift values" for consistency. Applicant further argues that new claim 44 incorporates the limitations of claim 28 and the indicated allowable subject matter of claim 29. However, it is noted that only a portion of the allowable subject matter of claim 29 is incorporated in claim 44. claim 30 the "phase locking" step recited in the claim is not a further step since such a step has already been recited in claim 44. claim 19, line s 13-14, claim 23, lines 15-16, claim 33, line 12, "the outputs of the m sampling devices" lacks of proper antecedent basis. claim 22, last line, "local" should be replaced by "remote". claim 25, lines, 3-6, and claim 35, lines 5-7, "local" should be "remote". and "shifting logic" should be "shifting circuitry". .